

(2) If the ISOC upholds the appeal in its entirety, the information will be released in accordance with the provisions of paragraph (e) of this section.

(3) If the ISOC denies the appeal, in part or in its entirety, then it will forward the appeal with its recommendation(s) to the Administrator of FEMA, for a final determination. A reply will be forwarded to the requestor enclosing the declassified releasable information if any, and an explanation for denying the request in whole or in part.

(4) Final action on appeals shall be completed within thirty (30) working days of receipt of appeal.

[49 FR 24518, June 14, 1984, as amended at 49 FR 38119, Sept. 27, 1984; 50 FR 40006, Oct. 1, 1985; 51 FR 34605, Sept. 30, 1986]

PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

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APPENDIX A TO PART 9—DECISION-MAKING PROCESS FOR E.O. 11988

AUTHORITY: E.O. 11988 of May 24, 1977, 3 CFR, 1977 Comp., p. 117; E.O. 11990 of May 24, 1977, 3 CFR, 1977 Comp. p. 121; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412, as amended.; E.O. 12127; E.O. 12148; 42 U.S.C. 5201.

SOURCE: 45 FR 59526, Sept. 9, 1980, unless otherwise noted.

§ 9.1 Purpose of part.

This regulation sets forth the policy, procedure and responsibilities to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

§ 9.2 Policy.

(a) FEMA shall take no action unless and until the requirements of this regulation are complied with.

(b) It is the policy of the Agency to provide leadership in floodplain management and the protection of wetlands. Further, the Agency shall integrate the goals of the Orders to the greatest possible degree into its procedures for implementing NEPA. The Agency shall take action to:

(1) Avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains and the destruction and modification of wetlands;

(2) Avoid direct and indirect support of floodplain development and new construction in wetlands wherever there is a practicable alternative;

(3) Reduce the risk of flood loss;

(4) Promote the use of nonstructural flood protection methods to reduce the risk of flood loss;

(5) Minimize the impact of floods on human health, safety and welfare;

(6) Minimize the destruction, loss or degradation of wetlands;

(7) Restore and preserve the natural and beneficial values served by floodplains;

(8) Preserve and enhance the natural values of wetlands;

(9) Involve the public throughout the floodplain management and wetlands protection decision-making process;

(10) Adhere to the objectives of the Unified National Program for Floodplain Management; and

(11) Improve and coordinate the Agency's plans, programs, functions and resources so that the Nation may attain the widest range of beneficial uses of the environment without degradation or risk to health and safety.

§ 9.3 Authority.

The authority for these regulations is (a) Executive Order 11988, May 24, 1977, which replaced Executive Order

11296, August 10, 1966, (b) Executive Order 11990, May 24, 1977, (c) Reorganization Plan No. 3 of 1978 (43 FR 41943); and (d) Executive Order 12127, April 1, 1979 (44 FR 19336). E.O. 11988 was issued in furtherance of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-488); the Flood Disaster Protection Act of 1973, as amended (Pub. L. 93-234); and the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91-190). Section 2(d) of Executive Order 11988 requires issuance of new or amended regulations and procedures to satisfy its substantive and procedural provisions. E.O. 11990 was issued in furtherance of NEPA, and at section 6 required issuance of new or amended regulations and procedures to satisfy its substantive and procedural provisions.

[45 FR 59526, Sept. 9, 1980, as amended at 48 FR 44543, Sept. 29, 1983]

§ 9.4 Definitions.

The following definitions shall apply throughout this regulation.

Action means any action or activity including: (a) Acquiring, managing and disposing of Federal lands and facilities; (b) providing federally undertaken, financed or assisted construction and improvements; and (c) conducting Federal activities and programs affecting land use, including, but not limited to, water and related land resources, planning, regulating and licensing activities.

Actions Affecting or Affected by Floodplains or Wetlands means actions which have the potential to result in the long- or short-term impacts associated with (a) the occupancy or modification of floodplains, and the direct or indirect support of floodplain development, or (b) the destruction and modification of wetlands and the direct or indirect support of new construction in wetlands.

Administrator means the Administrator of the Federal Emergency Management Agency.

Agency means the Federal Emergency Management Agency (FEMA).

Agency Assistance means grants for projects or planning activities, loans, and all other forms of financial or technical assistance provided by the Agency.

Base Flood means the flood which has a one percent chance of being equalled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

Base Floodplain means the 100-year floodplain (one percent chance floodplain).

Coastal High Hazard Area means the areas subject to high velocity waters including but not limited to hurricane wave wash or tsunamis. On a Flood Insurance Rate Map (FIRM), this appears as zone V1-30, VE or V.

Critical Action means an action for which even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the 500-year floodplain, i.e., critical action floodplain. Critical actions include, but are not limited to, those which create or extend the useful life of structures or facilities:

(a) Such as those which produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;

(b) Such as hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;

(c) Such as emergency operation centers, or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and

(d) Such as generating plants, and other principal points of utility lines.

Direct Impacts means changes in floodplain or wetland values and functions and changes in the risk to lives and property caused or induced by an action or related activity. Impacts are caused whenever these natural values and functions are affected as a direct result of an action. An action which would result in the discharge of polluted storm waters into a floodplain or wetland, for example, would directly affect their natural values and functions. Construction-related activities, such as dredging and filling operations within the floodplain or a wetland